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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,041	01/25/2002	Richard L. Wall	40256.1-US-01	3441
23552	7590	08/07/2006	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			DYKE, KERRI M	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,041

Applicant(s)

WALL ET AL.

Examiner

Kerri M. Rose

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-24 is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 5 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see page 8, filed 07/17/2006, with respect to the rejection(s) of claim(s) 1-24 under 102 and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Huotari et al. (US 2002/0004935) and Benmohamed et al. (US 6,240,463).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doshi et al. (*Overview of INDNT – A new Tool for Next Generation Network Design*) in view of Benmohamed et al. (US 6,240,463) further in view of Huotari et al. (US 2002/0004935).

3. In regards to claim 1, Doshi et al. discloses provisioning components in the network to provide a private line design; and retrying the provisioning operation. Section 1 discloses that the IDNT tool can be used for six different types of networks, including private lines. Section 2 discloses how the IDNT works in detail, including the details about using the tool recursively to obtain an optimum network. Doshi et al. does not disclose validating the design, retrying the provisioning operation in response to a failed validation or configuring the network to build the validated design.

Benmohamed discloses testing for validation and retrying the provisioning operation if the design is not valid in column 18 lines 28-33. Huotari discloses configuring a device in paragraph 12 on page 2. Figures 6-8 disclose three different embodiments for obtaining the configuration file and using it to configure the device. Paragraph 67 states the configuration file can be developed by any program capable of outputting a datafile. (Doshi does not automatically configure the network. Therefore the design must be output to a file for another program or network manager to implement the design, otherwise the design program would be useless.) Building a private line can be viewed as configuring a series of devices. Paragraph 132 discloses that many different devices can be configured with the invention of Huotari.

It would have been obvious to one of ordinary skill in the art to validate the design of Doshi and restart if the design is not valid, as taught by Benmohamed, because implementing a new design can be very costly and therefore a designer would want to ensure the design will work, at least in theory before beginning. Additionally, it is desirable to ensure that the design meets all of the designers specifications and therefore will best meet the needs of customers, as disclosed by Benmohamed in column 1 lines 23-30 and 50-59. It would have been obvious to one of ordinary skill in the art to automatically configure the devices in the private line, as taught by Huotari, because doing so provides an efficient, cost-effective, and error-free configuration as taught in paragraphs 7, 9, and 10.

4. In regards to claim 4, Doshi, Benmohamed, and Huotari disclose the method of claim 1 further comprising the operations of: finding an optimal route; said provisioning operation provisioning the private line design based on the optimal route (Doshi section 2 and more specifically section 2.2 and Benmohamed col. 18 lines 28-33).

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5. In regards to claim 5, Doshi, Benmohamed, and Huotari disclose the method of claim 4 further comprising the operations of: testing the capacity of the optimal route; retrying said finding and capacity testing operations if the optimal route does not have the capacity to provide the private line (Doshi section 2 and more specifically section 2.2 and Benmohamed col. 3 lines 44-45 and col. 5 lines 1-3).

Allowable Subject Matter

6. Claims 7-24 are allowed.

7. Claims 2, 3, and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

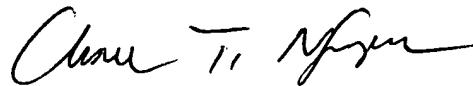
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kerri M. Rose whose telephone number is (571) 272-0542. The examiner can normally be reached on Monday through Thursday, 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

kmd

A handwritten signature in black ink, appearing to read "Chau T. Nguyen", is positioned above the printed name.

**CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600**